

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTONIO KEATON,

Plaintiff,

No. CIV S-03-0864 GEB CMK P

vs.

T. FELKER, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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Plaintiff is a prisoner who is proceeding pro se and in forma pauperis. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983.

On December 6, 2005, the court ordered the United States Marshal to serve the complaint on defendant Dikeson. Process directed to defendant Dikeson was returned unserved because "defendant is unable to be identified." Plaintiff's in forma pauperis status relieves him of the responsibility of effecting service, but Plaintiff is still responsible for providing sufficient information to serve the defendants. See Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir. 1994) (abrogated on other grounds). Plaintiff has previously been ordered to provide additional

1 information to serve this defendant. (Docs. 30 and 43.) However, defendant has failed to do so.<sup>1</sup>

2 Federal Rule of Civil Procedure 4(m) provides that if service is not made on a  
3 defendant within 120 days after the filing of the complaint, the court may, on its own initiative  
4 after notice to the plaintiff, dismiss the action without prejudice as to that defendant. Fed. R.  
5 Civ. P 4(m). More than 120 days have passed since defendant filed his amended complaint on  
6 April 29, 2004. The court gave plaintiff the required notice in an order filed November 18,  
7 2005. (Doc. 44.) Plaintiff has not shown good cause for his failure to provide adequate  
8 information to serve defendant Dikeson.

9 Accordingly, IT IS RECOMMENDED that defendant Dikeson be dismissed from  
10 this action without prejudice. See Fed. R. Civ. P 4(m).

11 These findings and recommendations are submitted to the United States District  
12 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
13 twenty days after being served with these findings and recommendations, plaintiff may file  
14 written objections with the court. The document should be captioned "Objections to Magistrate  
15 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections  
16 within the specified time may waive the right to appeal the District Court's order. See Martinez  
17 v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

18  
19 DATED: February 22, 2006.

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21   
22 **CRAIG M. KELLISON**  
23 UNITED STATES MAGISTRATE JUDGE  
24

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26 <sup>1</sup>Plaintiff's returned summons listed only "Dikeson" and provided no address or other  
identifying information.